

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE

**THOMAS GERALD ROWELL AND
CHERYL LEE ROWELL**

DEBTOR

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**CASE NO. 20-35141
CHAPTER 7**

JUDGE JEFFREY P. NORMAN

**TRUSTEE'S MOTION FOR EXPEDITED CONSIDERATION OF, OR HEARING ON, MOTION
TO SELL REAL PROPERTY FREE AND CLEAR OF LIENS AND CLAIMS PURSUANT TO 11
U.S.C. § 363(b) and (f) and PAY BROKER COMMISSIONS AT CLOSING**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN TWENTY-ONE (21) DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

**To the Honorable Jeffrey P. Norman,
United States Bankruptcy Judge:**

COMES NOW Randy W. Williams, Trustee and would show as follows:

1. On April 19, 2021, the Trustee filed his Motion to Sell Real Property Free and Clear of Liens and Claims Pursuant to 11 U.S.C. § 363(b) and (f) and Pay Broker Commissions at Closing seeking authorization to sell non-exempt real property located at 906 N. Rush Dr., Fayetteville, AR 72701 (the "Property") on a short sale basis with approval of the lenders involved [Docket Number 52] (the "Motion to Sell"). Those lenders are:

- a. Approximately \$1,850 to the Washington County Arkansas Taxing Authorities;
- b. A mortgage of approximately \$158,300.00 to Simmons First National Bank ("Simmons Bank");
- c. A mortgage in the original principal amount of \$425,000.00 to Spirit of Texas Bank ("Spirit of Texas"); and

d. A mortgage in favor of the U.S. Small Business Administration (the “SBA”) in the original principal amount of \$121,700.00.

2. Although property taxes and the claim of Simmons Bank will be paid in full in the proposed sale, Spirit of Texas and the SBA have agreed to accept a reduced amount for their claims. Their consent is premised on a minimum net and interest continues to accrue on these substantial obligations. Further, it is the Trustee’s typical experience that title companies will not close a bankruptcy court approved real property sale any sooner than 14-days after entry of the order approving the sale. So as to avoid the potential for having to re-negotiate payoffs to Spirit of Texas and the SBA, due to interest accrual if the sale is closed beyond May 31, 2021, and to accommodate for anticipated closing delays, the Trustee requests that the Court consider, or hear, the Motion to Sell on or before April 30, 2021. A ruling on the relief requested by this date will allow the proposed sale to timely close if approved.

3. The Trustee posits that an expedited relief is warranted in that the benefit to be realized by the Estate from the proposed sale is via an agreed to surcharge of \$18,500, not an equity recovery. The real property at issue is not sufficiently valuable to be sold for an amount which will satisfy all secured claims.

WHEREFORE based on the foregoing, the Trustee requests all relief set out herein and for such other and further relief to which entitlement may be shown.

Respectfully submitted,

/s/ Marc Douglas Myers

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COUNSEL FOR THE TRUSTEE

CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2021, a true and correct copy of the foregoing was sent via regular US mail to the Debtor(s), counsel for the Debtor(s), the Trustee, counsel for the Trustee, the US Trustee, all creditors and all persons requesting notice as set forth in the attached unless otherwise served by the CM-ECF system.

/s/ Marc Douglas Myers

Marc Douglas Myers